




WINCHESTER POLICE DEPARTMENT OPERATION ORDER

NOTE: This policy is for internal use only, and does not enlarge an employee’s civil liability in any way. It should not be construed as the creation of a higher standard of safety or case in an evidentiary sense, with respect to third party claims. Violation of this policy, if proven, can only form the basis of a complaint by this Department, and then only in a non-judicial administrative setting.

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| Number 2-4C | | Effective Date October 1, 2018 | Review Date | Reviewing Division Administration |
| Subject USE OF ELECTRONIC CONTROL WEAPONS | <input type="checkbox"/> New Policy <input type="checkbox"/> Amends <input checked="" type="checkbox"/> Replaces WPD GO 2-65 | | This policy shall apply to personnel assigned to the following divisions: <input type="checkbox"/> All Personnel <input checked="" type="checkbox"/> Patrol Division <input checked="" type="checkbox"/> Administration Division <input checked="" type="checkbox"/> Investigation Division | |
| References VLEPSC CALEA | | | | |
|  <hr/> Chief of Police or Designee | | March 23, 2023 <hr/> Date | | |

I. PURPOSE

This policy is intended to inform and direct those officers who are authorized operators and provide general guidelines for the use of an electronic control weapon (ECW), which is the TASER X2 model, which are manufactured by TASER International of Scottsdale, Arizona. This policy is to insure the deployment of the ECW is completed in a uniform and professional manner. The ECW will be used as an additional police tool and is not intended to replace firearms, batons, chemical spray or other self-defense techniques. The ECW may reduce the need for other types of physical force by the officer.

II. POLICY

The Winchester Police Department acknowledges the sanctity of human life must be paramount in every officer’s mind. Although we are often called upon to make split second decisions regarding life or death situations, it will be the intent of our officers to use only the amount of force which is reasonably necessary. Excessive use of force can result in an overall degradation in public trust. The sanctity of human life must be foremost in the minds of every officer of this Department and every opportunity to avoid using force, when feasible, should be considered. The ECW has been proven effective in furtherance of this policy, and is authorized for use in appropriate circumstances by trained personnel. Winchester Police Department personnel will consider the following three factors when utilizing an ECW:

- A. The severity of the crime.
- B. Whether or not the subject posing an immediate threat to officer(s) or someone else.

- C. Whether or not the subject actively resisting arrest or attempting to evade arrest by flight and is a significant risk to officers, himself, or others if not immediately captured.

III. DEFINITIONS

A. ECW

The ECW is a less lethal Electronic Control Weapon (ECW) that uses compressed nitrogen to deploy two (2) small probes that are attached to the ECW by insulated conductive wires with a maximum length of thirty-five (35) feet. The ECW transmits electrical pulses along the wires and into the body, affecting the sensory and motor functions of the peripheral nervous system. The energy can penetrate up to two (2) cumulative inches of clothing, or one (1) inch per probe, thereby incapacitating subjects with minimum risk of serious injury.

B. Activation/deploy

Pulling the trigger of an ECW, causing a probe discharge.

C. Active Resistance

When an individual's verbal and/or physical actions are intended to prevent an officer from taking lawful action, but are not intended to harm the officer.

D. Anti-Felon Identification (AFID) tags

Small identifying multi-color, confetti tags expelled from an ECW cartridge when probes are discharged. Each confetti tag contains a serial number unique to the specific cartridge used.

E. Arcing

Depressing the ARC switch to activate the ECW without discharging probes. This may be done as a warning to the subject or to test the ECW prior to deployment (sometimes referred to as a spark test.)

F. Cartridge

A replaceable vessel that generally contains compressed gas, probes, connecting wires, and AFID.

G. Cycle

The period during which electrical pulses are emitted from the ECW following activation. A standard cycle is 5 seconds for each activation. The duration of the cycle may be shortened by turning the ECW off. After a standard 5 second cycle officers should evaluate the situation to determine if subsequent cycles are independently justifiable. Each 5 second cycle constitutes a separate deliberate use of force.

H. Drive stun

Drive stun requires pulling the trigger (after probe deployment) or pushing the ARC switch and placing the ECW in direct contact with the subject, causing the electric energy to enter the subject directly.

The Drive stun will only be used to achieve NMI, after the probes have been deployed from the ECW and one of the following situations occur:

1. Probes strike the subject, but do not have adequate spread to achieve NMI.
2. NMI is not achieved due to only one probe striking the subject or there is no connectivity between the probes due to clothing disconnect.

I. Exigent circumstances

Circumstances that would cause a reasonable person to believe that prompt and unusual action is necessary to prevent physical injury to self or others.

J. Fleeing

An active attempt by a subject to avoid apprehension by law enforcement officer through evasive actions while attempting to leave the scene.

K. Laser painting

The act of un-holstering and pointing an ECW at a subject and activating the ECW's laser dots to show that the weapon is aimed at the subject.

L. Neuro-Muscular Incapacitation

The effect of the ECW on a subject when, through the application of an electrical pulse, the ECW dominates the motor nervous system by interfering with electrical signals sent to the skeletal muscles by the central nervous system.

M. Passive Resistance

When an individual poses no immediate threat to an officer but is not complying with lawful orders and is taking minimal physical action to prevent an officer from taking lawful action.

N. Probe spread

The amount of distance between the probes fired by the ECW.

O. Probes

Projectiles with wires contained in an ECW cartridge. When the ECW is discharged, probes are expelled from the ECW and penetrate the subject's clothing and/or skin, allowing application of the electric impulse.

P. Sensitive areas

An area of the subject's body that may cause more serious injury to the subject if struck with an ECW probe (e.g., head, neck, genitalia)

IV. PROCEDURES

A. Guidelines

1. Only officers who have satisfactorily completed the ECW training course, and/or the manufacturer's certification course of instruction shall be authorized to carry or deploy the ECW. All personnel authorized to carry an ECW shall complete an annual in-service refresher training.
2. The ECW can be used when a reasonable officer would perceive some immediate danger that would be mitigated by using the ECW.
3. The ECW may be used to protect a subject when that person is either attempting to seriously injure him or herself or commit suicide.
4. The ECW may be deployed whenever a situation arises where the use of force techniques expose the officer, the subject, or the public to imminent danger.
5. The ECW may be used to control a dangerous animal.
6. In cases where officers must deploy the ECW more than once on the same subject, each deployment must be validated by activity occurring at that moment.

B. Equipment Wear

1. The ECW will be carried by authorized officers in an approved holster, located on the duty belt or outer vest. The ECW may be placed in a cross draw or support hand draw on the officer's duty belt or outer vest. Wearing the ECW on the support hand side of the outer vest is recommended. Wearing an ECW on the officer's strong side or firearm side of the duty belt is strictly prohibited.

C. Usage and Deployment

1. Any ECW used by Department personnel will be marked in such a fashion so that it is not mistaken for a handgun. The X2 model is yellow in color.
2. The ECW should not be used as a substitute for deadly force and should not be used in those situations. Display of the ECW should be backed up with the availability of lethal force, whenever possible and appropriate.

3. Only a properly functioning and charged ECW will be carried for field use. The ECW will be inspected daily for proper functioning by performing a “spark test” that lasts five seconds.
4. Any ECW or component thereof found to be defective or damaged shall be given to a Taser Instructor, with a detailed written explanation of the malfunction or cause of damage.
5. A verbal warning will be given to a subject prior to deploying the ECW unless doing so would place any person at risk or the officer is unable to due to exigent circumstances. Other warnings may be in the form of display, laser painting, arcing (Use of the ARC switch), or a combination of these tactics.
6. Never aim the ECW at the eyes or the face, unless deadly force would be otherwise justified.
7. The preferred target on a subject is the subject’s back; however, it is not always possible to get behind the subject. When targeting the front of a subject, the officer should target below the chest area.
8. Avoid firing the ECW near flammable liquids or fumes. The ECW can ignite gasoline or other flammables. Some self-defense sprays are flammable and would be extremely dangerous to use in conjunction with the ECW. Do not deploy the ECW in known highly flammable environments such as methamphetamine labs, etc.
9. An ECW should not be used against persons in physical control of a vehicle in motion such as automobiles, motorcycles, ATVs, bicycles, scooter.
10. The ECW in “drive stun” mode should be used only to supplement the probe mode to complete the NMI circuit, or in response to a person’s assaultive behavior as a countermeasure to gain separation from the person so that officers can consider another force option. Officers shall not use drive stun solely as a pain compliance technique against someone who is not a threat to themselves or others. This includes a prohibition of use against a passive resistant person.
11. Subjects will be removed from the prone position as soon as practical after an ECW deployment.

D. Neuro-Muscular Incapacitation (NMI) versus Pain Compliance

1. NMI is achieved when the probes of the ECW are deployed effectively and have come in contact with the subject’s body. NMI affects the motor and sensory nervous systems resulting in the subject losing the ability to control their muscles and an involuntary immobilization/ incapacitation effect. Probe deployment and the resulting NMI is the desired method of delivery for the ECW.
2. The ECW’s secondary method for control, the drive stun, has the capability of delivering a “painful stimulus” to the subject. This stimulus

is used to create a pain compliance effect when the ECW prongs are placed directly against the subject's body and the ECW is activated. Use of drive stun mode to achieve pain compliance on a passive resistant person is PROHIBITED, unless the officer or other persons are faced with an imminent threat of harm from the subject or exigent circumstances.

E. Objective Test:

1. Whether an officer's actions are "objectively reasonable" in light of the facts and circumstances confronting them, without regard to their underlying intent or motivation.
2. ECW should only be deployed when an officer is confronted with an exigency that creates an immediate safety risk, and should not be used in the face of stationary and non-violent resistance to being handcuffed
3. Emotionally disturbed person (EDP) or mentally ill alone does not indicate immediate threat. Choose a force option reasonably likely to cure the immediate safety risk.
4. Considerations when attempting to evade seizure by flight:
 - Whether or not the flight is from a serious event;
 - Availability of alternative methods of capturing, controlling, restraining, or subduing subject;
 - Whether or not the subject poses a significant risk to officers, himself, or others if not immediately captured.

F. Post-Use Procedures (Probe Removal)

If practical, emergency medical responders shall be called to the scene to evaluate a subject who has been exposed to an ECW. If the subject is acting disorderly, the subject may be evaluated at the jail by medical personnel. Only a certified TASER operator or qualified medical personnel may remove probes from a subject. The following procedures will be employed after ECW deployment for probe removal, evidence collection, and clean up:

1. Do not attempt probe removal if the subject is combative, objects to police removal, or if the location of the barb is in the face, ear, breast, groin, or deeply imbedded.
2. Barbs superficially in the skin may be removed by personnel who are trained to do so and in the presence of another person.
3. Latex gloves should be used for the removal of probes.
4. Place the removed probes and spent cartridges barb side down.

5. Subjects exposed to an ECW for a prolonged application (i.e., more than 15 seconds) shall be transported to a medical facility for evaluation. If the subject is unwilling to be transported to the medical facility to be medically cleared, make sure to document the refusal by the subject.
6. Assess the subject for injury or any condition that may need medical attention, and seek the appropriate level of service.
7. Securely tape the cartridge and probes and mark as biohazard waste.
8. Attempt to take photos of the locations where the ECW probe(s) struck the subject, any injuries the subject obtained during the incident, and/or marks left on the subject by the ECW.
9. When the device has been used operationally, the officer will collect the air cartridge, wire leads, darts/probes, and AFID and log as evidence. Caution should be exercised in handling the darts/probes. Darts/probes must be packaged and handled with the same care as a hypodermic needle to prevent infectious disease exposure. Evidence packaging shall be labeled "biohazard" and can be disposed of after the case has been finalized by placing them in a sharps container or equivalent.
10. Notify jail personnel that a subject has received an ECW application prior to custody transfer.

G. Reporting Requirements

1. Any incident in which an ECW is discharged, whether it was effective or not, with the exception of training and spark testing, requires:
 - a. Notification to the appropriate supervisor;
 - b. Completion of an incident report, Use of Force Report, and any supplemental reports; and
 - c. Notification to lead Taser instructor(s) via email.
2. Any officer who unintentionally discharges the ECW in an on-duty non-training session shall immediately notify their supervisor. The supervisor should then notify the command staff and Lead Taser instructor of the unintentional discharge by email.
3. When an ECW is discharged in an enforcement situation, an incident report and the Use of Force Report shall be completed by the officer. The report, in addition to the regular information required, must contain the following information:
 - a. ECW serial number;
 - b. Cartridge serial number;

- c. Location of probe strike, and photographs of the strike area, if possible;
 - d. Injuries sustained;
 - e. Who performed the probe removal and any treatment rendered;
 - f. Responding supervisor; and
 - g. Discharging officer's name.
4. Following field deployment of the ECW, data will be downloaded from the device for documentation purposes. A Taser Instructor will download activation data from the ECW data port and file that documentation with the Use of Force Report. If the information is unable to be downloaded, a notation will be made on the Use of Force Report.

H. Tactical Considerations and Limitations

The ECW will not be used in any of the following situations:

1. On any known or obviously pregnant female without a deadly force situation present;
2. On any subject who is known to be saturated with or in the presence of highly flammable or combustible materials and liquids;
3. On any subject that is in an elevated position, where the officer believes a fall from that position may cause serious injury or death;
4. As a tool of coercion or punishment;
5. On any person who is handcuffed, unless there is an immediate threat to the officer or others.
6. Utilizing more than three standard 5 second cycles (maximum total 15 seconds) of exposure on a subject without exigent circumstances;
7. To use of the ECW on a subject being taken into custody only for an Emergency Custody Order (ECO), unless subject becomes violent or presents a threat of imminent harm to the officer or others.
8. On a passively resistant subject without any immediate threat to themselves, others, or officers.
9. On a subject fleeing without any further acts to make a reasonable officer believe they are an immediate threat to himself, officers, or others.

I. Responsibilities of Designated ECW Coordinator/Instructor

The designated ECW coordinator/instructor will:

1. Receive, inspect, and ensure the maintenance and replacement of the Department's ECW devices and related equipment;
2. Maintain and complete records of issuance of equipment in accordance with Department policy;
3. Obtain service and/or replacement for defective or damaged ECW components and return any defective or damaged ECW and air cartridges to the suppliers;
4. Review reported uses of an ECW by Department personnel and establish a system for maintaining statistics on the performance of the ECW;
5. Annually ensure basic certification and re-certification of designated Department personnel on the ECW, as well as maintaining a record of the training; and
6. All other duties as may become necessary for the employment, maintenance, and enhancement of the Department's ECW program.